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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91189418
Party	Defendant Phoenix 2008 LLC
Correspondence Address	BRIAN J. HURH DAVIS WRIGHT TREMAINE LLP 1919 PENNSYLVANIA AVE NW STE 200 WASHINGTON, DC 20006-3402 brianhurh@dwt.com
Submission	Answer
Filer's Name	Brian J. Hurh
Filer's e-mail	brianhurh@dwt.com
Signature	/brian j. hurh/
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Attachments	Answer to Opposition 91189418.pdf (6 pages)(18247 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of:
Application Serial No. 77476098
Filed May 15, 2008
SPEEDVISION

Application Serial No. 77497086
Filed June 12, 2008
SPEEDVISION

Application Serial No. 77476107
Filed May 15, 2008
SPEEDVISION HD

Application Serial No. 77478035
Filed May 19, 2008
SPEEDVISION (and design)

Speed Channel, Inc.

Opposer,

v.

Phoenix 2008 LLC,

Applicant.

Opposition No. 91189418

ANSWER

Phoenix 2008 LLC (“Applicant”), by and through its attorneys, Davis Wright Tremaine LLP, submits its Answer to the Notice of Opposition (“Opposition”) filed by Speed Channel, Inc. (“Opposer”) against Applicant’s above-captioned applications (collectively, “Applications”). Except as expressly admitted below, Applicant denies each and every allegation and causes of action in the Opposition.

**APPLICANT’S RESPONSES TO EACH PARAGRAPH OF
OPPOSER’S OPPOSITION**

For its responses to the separately numbered paragraphs of the Opposition, Applicant states as follows:

1. Applicant admits the allegations set forth in paragraph 1 of the Opposition.

2. Applicant admits the allegations set forth in paragraph 2 of the Opposition.

3. Applicant admits the allegations set forth in paragraph 3 of the Opposition.

4. Applicant admits the allegation set forth in paragraph 4 of the Opposition that Opposer’s SPEED television network is a 24-hour cable television network featuring television programming about automotive subjects and motor sports. Applicant otherwise has insufficient knowledge or information as to the truth of the remaining allegations set forth in paragraph 4, and, therefore, denies said allegations.

5. Applicant admits the allegation set forth in paragraph 5 of the Opposition that Opposer owns a trademark for SPEED, Reg. No. 3128705 for “production and distribution of television and radio programs featuring sports and entertainment” in International Class 41. Applicant further admits that Opposer has filed with its Opposition as Exhibit A copies of USPTO TARR and TESS database printouts, and asserts that these documents speak for themselves. Applicant otherwise denies the remaining allegations set forth in paragraph 5.

6. Applicant admits the allegation set forth in paragraph 6 of the Opposition that Opposer owns federal applications for trademarks incorporating the word “speed” covering a variety of goods and services, including services in International Class 41. Applicant further admits that Opposer has filed with its Opposition as Exhibit B a copy of a USPTO TARR and

TESS database printout, and asserts that the document speaks for itself. Applicant otherwise denies the remaining allegations set forth in paragraph 6.

7. Applicant has insufficient knowledge or information as to the truth of the allegation set forth in paragraph 7 of the Opposition that Opposer's predecessor in interest, Speedvision Network, LLC, first used the trademark SPEEDVISION to identify its products and services, at least as early as 1996, more than eleven (11) years before Applicant filed its Applications, and, therefore, denies said allegation. Applicant otherwise denies the remaining allegations set forth in paragraph 7.

8. Applicant denies the allegations set forth in paragraph 8 of the Opposition.

9. Applicant denies the allegations set forth in paragraph 9 of the Opposition.

10. Applicant denies the allegations set forth in paragraph 10 of the Opposition.

11. Applicant denies the allegations set forth in paragraph 11 of the Opposition.

12. Applicant denies the allegations set forth in paragraph 12 of the Opposition.

13. Applicant denies the allegations set forth in paragraph 13 of the Opposition.

14. Applicant denies the allegations set forth in paragraph 14 of the Opposition.

15. Applicant has insufficient knowledge or information as to the truth of the allegation set forth in paragraph 15 of the Opposition that Opposer has valid common law rights in its SPEED Marks, and, therefore, denies said allegation. Applicant otherwise denies the remaining allegations set forth in paragraph 15.

16. Applicant admits the allegation of paragraph 16 of the Opposition that if any of Applicant's marks that are the subject of the Applications proceed to registration, Applicant would obtain *prima facie* rights to use such marks. Applicant denies the remaining allegations set forth in paragraph 16.

AFFIRMATIVE DEFENSES

Without assuming any burden of proof that it would not otherwise bear under applicable law, Applicant asserts the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

17. Opposer has failed to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

18. The claims alleged in Opposer's Opposition are barred, in whole or in part, by abandonment.

THIRD AFFIRMATIVE DEFENSE

19. The claims alleged in Opposer's Opposition are barred, in whole or in part, by the doctrine of unclean hands.

FOURTH AFFIRMATIVE DEFENSE

20. The claims alleged in Opposer's Opposition are barred, in whole or in part, by the doctrine of estoppel.

FIFTH AFFIRMATIVE DEFENSE

21. The claims alleged in Opposer's Opposition are barred, in whole or in part, by the doctrine of bad faith.

WHEREFORE, in view of the foregoing, Applicant contends that this Opposition is groundless, that Opposer has not shown that it will be, or is likely to be, damaged by the registration of Applicant's Marks, and that Applicant's Marks are not confusingly similar to Opposer's marks; and Applicant respectfully requests that the Notice of Opposition be dismissed in its entirety, and that a Notice of Allowance issue for each of Applicant's Marks.

Respectfully submitted,

PHOENIX 2008 LLC

By: /brian j. hurh/
Burt Braverman
David M. Silverman
Brian J. Hurh

DAVIS WRIGHT TREMAINE LLP
1919 Pennsylvania Ave., N.W.
Suite 200
Washington, D.C. 20006
(202) 973-4200

Its Attorneys

May 4, 2009

CERTIFICATE OF SERVICE

I, Sharon Mathis, do hereby certify that a copy of the foregoing "Answer" was sent via first class, postage prepaid, United States mail, this 4th day of May, 2009 to the following:

Daniel E. Bruso, Esq.
Curtis Krechevsky, Esq.
Cantor Colburn LLP
20 Church Street, 22nd Floor
Hartford, CT 06103-3207
Counsel for Opposer, Speed Channel, Inc.

/sharon k. mathis/

Sharon K. Mathis